



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/577,860

04/28/2006

Leeor Aharon

1893/45

3794

44696

7590

08/18/2010

DR. MARK M. FRIEDMAN

C/O BILL POLKINGHORN - DISCOVERY DISPATCH

9003 FLORIN WAY

UPPER MARLBORO, MD 20772

EXAMINER

PEARSON, DAVID J

ART UNIT

PAPER NUMBER

2437

NOTIFICATION DATE

DELIVERY MODE

08/18/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mark_f@friedpat.com

nomi_m@friedpat.com

friedpat.uspto@gmail.com

Office Action Summary	Application No. 10/577,860	Applicant(s) AHARON ET AL.	
	Examiner DAVID J. PEARSON	Art Unit 2437	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 and 16-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-14, 16-19 and 23-25 is/are allowed.
- 6) ☒ Claim(s) 20-22 and 26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1-14 and 16-26 have been examined.

Response to Arguments

2. Applicant's arguments, see Remarks, pages 11-13, filed 06/09/2010, with respect to claims 1, 11, 16, 17 and 20 have been fully considered and are persuasive. The 35 USC 103 rejection of 04/27/2010 has been withdrawn.

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 101

4. Claims 20-22 and 26 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 20-22 and 26 are directed towards an "apparatus". However, the components of the "apparatus" are "a plurality of software modules..." and "a processor..." While applicant's specification provides for what appears to be a hardware processor (note Fig. 2 and page 7, lines 12-17), this is only one example of a "processor". There are embodiments where the "processor" could be software (e.g. an operating system). Therefore, there exists embodiments of claims 20-22 and 26 that are composed entirely of software and are therefore non-statutory subject matter.

Examiner recommends amending claim 20 to recite "...a plurality of software modules stored on a program storage device, for detecting..." as similarly found in

Art Unit: 2437

independent claims 16 and 17 to force all embodiments of claims 20-22 and 26 to include a piece of hardware and thus be statutory subject matter.

Allowable Subject Matter

5. Claims 1-14, 16-19 and 23-25 are allowed.

The following is an examiner's statement of reasons for allowance.

For independent claims 1, 11 and 16-17, the prior art of record, alone or in combination, fails to teach the following limitation in conjunction with the rest of the claimed limitations:

“(a) monitoring by the gateway for at least one suspicious portion of data in a portion of the stream of data traffic that is expected to lack executable code;

(b) upon detecting said at least one suspicious portion of data, attempting to disassemble said at least one suspicious portion of data thereby attempting to produce disassembled executable code;”

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID J. PEARSON whose telephone number is (571)272-0711. The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm; off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David J Pearson/
Examiner, Art Unit 2437